

§ 589.3

(2) Have been held in contempt of a court for failure to obey a court order, or

(3) Have been ordered to show cause why they should not be held in contempt for failing to obey a court order. This guidance does not affect the authority of Army officials to cooperate with courts and federal, state, or local officials, such as is currently described in Army Regulation 27-3, Legal Services, Army Regulation 190-9, Military Absentee and Deserter Apprehension Program, and Army Regulation 608-99, Family Support, Child Custody, and Paternity, in enforcing orders against soldiers and employees in matters not discussed below. The guidance below does not authorize Army personnel to serve or attempt to serve process from U.S. courts on military or DoD employees overseas. (See also AR 27-40, Litigation, paragraph 1-7.)

§ 589.3 Applicability.

This section applies to the following personnel:

(a) Army personnel on active duty or inactive duty for training in overseas areas. This includes the National Guard when federalized.

(b) Department of the Army civilian employees, including Nonappropriated Fund Instrumentalities (NAFI) employees.

(c) Command sponsored family members of Army personnel or Department of the Army civilian employees.

§ 589.4 General.

(a) Courts of federal, state, or local officials desiring to initiate a request for assistance pursuant to this section must forward the request, with appropriate court orders, as follows:

(1) For soldiers and members of their family, to the soldier's unit commander of Office, Deputy Chief of Staff for Personnel (ODCSPER), ATTN: DAPE-MP (703-695-2497); and

(2) For Department of the Army civilian employees and members of their family, to the servicing civilian personnel office for the employee's command, or ODCSPER, ATTN: DAPE-CPL, (703-697-4429).

(3) Nonappropriated Fund (NAF) employees and members of their family, to the servicing civilian personnel of-

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fice for the employee's command, or ODCSPER, ATTN: CFSC-HR-P (703-325-9461).

(b) Upon receipt of such requests for assistance concerning courts orders described in paragraph (a) of this section and AR 190-9, commanders/supervisors, with the advice of their servicing Judge Advocates and legal advisors, will take action as appropriate as outlined below:

(1) Determine whether the request is based on an order issued by a court of competent jurisdiction. An "order issued by a court of competent jurisdiction" is an order that appears valid on its face and is signed by a judge.

(2) If the order appears valid on its face and is signed by a judge, attempt to resolve the matter in a timely manner to the satisfaction of the court without the return of, or other action affecting, the soldier, Army civilian employee, or family member. Due regard should be given to mission requirements, applicable international agreements, and ongoing DoD investigations or courts-martial.

(3) If the matter cannot be resolved, afford the subject of the court order a reasonable opportunity to provide evidence of legal efforts to resist the court order or otherwise show legitimate cause for noncompliance. If it is determined that efforts to provide such evidence or to show cause for noncompliance warrant a delay in taking further action, a request for delay, not to exceed 90 days, must be sought from the Secretary of the Army. Such requests, fully setting forth the reasons justifying delay and the estimated delay necessary, will be forwarded within 30 days directly to ODCSPER, ATTN: DAPE-MP (for military personnel and their family members or ODCSPER, ATTN: DAPE-CPL (for Army civilian employees and their family members) or ODCSPER, ATTN: CFSC-HR-P (for NAF employees and their family members). These offices must promptly forward the request for delay to the Assistant Secretary of Army (Manpower and Reserve Affairs) ASA(M&RA), for approval. If a delay is approved, ASA(M&RA) will promptly notify the Assistant Secretary of Defense (Force Management and Personnel) ASD